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Enrique J. Mora, Esquire
Beusse, Brownlee, Bowdoin & Wolter, P.A.
Suite 2500
390 North Orange Avenue
Orlando, FL 32801

EXAMINER

SANTOS, PATRICK J D

ART UNIT

PAPER NUMBER

2171

DATE MAILED: 12/12/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,561

Applicant(s)

BEYERLE ET AL.

Examiner

Patrick J Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The use of the trademark "GE APPLIANCES (TM)" [Specification: p. 1, ln. 7] has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-5, 9, 14-16, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 9, and 14 use the phrase "acceptable relative to at least one model"

[Specification: clm. 3, p. 11, ln. 3; clm. 9, p. 11, ln. 30; clm. 14, p. 13, ln. 14]. The word

“acceptable” is indefinite, since there exist varying degrees of acceptability. As such the public would not be able to determine the point where one might infringe.

Claims 4 and 15 use the phrase “marginally acceptable” [Specification: clm. 4, p. 11, ln. 7; and clm. 15, p. 13, ln. 19] which render the claims indefinite. The word “marginally” has a widely varying number of interpretations. One interpretation might be having all restrictions but one being met. Alternatively, another valid interpretation might be having no restrictions met but one. While the specification suggests that 10% constitutes “marginally” [Specification: Figure 1, item 32], the claims themselves are not specific. As such, the public would not be able to determine the point where one might infringe.

Claims 5 and 16 use the term “unsuitable” [Specification: clm. 5, p. 11, ln. 12; and clm. 16, p. 13, ln. 23]. The word “unsuitable” is indefinite, since there exist varying degrees of acceptability. As such the public would not be able to determine the point where one might infringe.

Claim 21 uses the phrase “appropriate action” [Specification: clm. 22, p. 14, ln. 18] which renders the claim indefinite. The word “appropriate” has a widely varying number of interpretations. One valid interpretation might be to have the purchaser go and purchase a service and an appliance on line. Another valid interpretation might be to have the purchaser simply print off a recommendation, even as to not make a purchase of any sort. As such, the public would not be able to determine the point where one might infringe.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5-6, 8, 10-11, 16-17, 19, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,167,383 issued to Henson (hereafter Henson '383) in view of the EBuild web site as of November 12, 2001 (hereafter EBuild '01). The archived EBuild web site is available from the WAYBACK MACHINE (TM) service from <http://web.archive.org> at:

<http://web.archive.org/web/20011122064515/ebuild.com/guide/ProductSpecifier.asp?CatCode=212>

Claims 1 and 11:

Regarding Claim 1, EBuild '01 is a web site that a computer-based method and a system for providing guidance to a purchaser for selecting an appliance. The method provides for on-line database search on venting appliances, specifically "Exhaust Vents/Range Hoods" [EBuild '01: Screen Shot 1, Right Pane Title]. Moreover, the guidance recommendations in said method and system regard a venting arrangement for the appliance and further the appliance related requirements are venting requirements data, for example "Venting System" in which choices include "Ductless" and "Ducted" [EBuild '01: Screen Shot 1, List Box Titles]. Furthermore, the method and system provides for a wizard-like interface, and parameters are vent parameters, for example "Type" in which choices include "Island Canopy," and "Slide-Out Vent Hood" [EBuild '01: Screen Shot 1, List Box Titles].

However, EBuild '01 does not explicitly teach:

- Providing a database for storing appliance-related information including a respective identifier for each appliance, the appliance-related information further including requirements data for each appliance;
- Configuring a wizard to provide a set of prompts over a communications network to elicit information from the purchaser regarding a respective appliance of interest to the purchaser, and parameters for the arrangement of the appliance;
- Accessing the database in view of the information supplied by the purchaser;
- Processing the information supplied by the purchaser relative to the requirements data for the appliance of interest to determine a recommendation to the purchaser regarding suitability of the venting arrangement relative to the appliance of interest; and
- Transmitting the recommendation to the purchaser so that appropriate action may be taken by the purchaser regarding the selection of the appliance and/or arrangement.

Henson '383 teaches a computer-based method for providing guidance to a purchaser for selecting an appliance [Henson '383: col. 2, lns. 62-63] by providing the means for customers to configure their appliances over the Internet [Henson '383: col. 2, lns. 64-67], said method including:

- Providing a database for storing appliance-related information including a respective identifier for each appliance, the appliance-related information further including requirements data for each appliance [Henson '383: col. 2, ln. 65; col. 3, lns. 21-29; col. 17, lns. 21-25];

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- Configuring a wizard to provide a set of prompts over a communications network to elicit information from the purchaser regarding a respective appliance of interest to the purchaser, and parameters for the arrangement of the appliance [Henson '383: col. 17, lns. 9-14];
- Accessing the database in view of the information supplied by the purchaser [Henson '383: col. 17, lns. 35-43];
- Processing the information supplied by the purchaser relative to the requirements data for the appliance of interest to determine a recommendation to the purchaser regarding suitability of the venting arrangement relative to the appliance of interest [Henson '383: col. 17, lns. 35-43]; and
- Transmitting the recommendation to the purchaser so that appropriate action may be taken by the purchaser regarding the selection of the appliance and/or arrangement [Henson '383: col. 17, lns. 35-43].

It would have been obvious for a person having ordinary skill in the art to apply the customer configuration invention of Henson '383 to the web page of EBuild '01. Specifically would have been obvious for a person having ordinary skill in the art to substitute the web page user interface of the Henson '383 invention for the current EBuild '01 web page, and to substitute the venting appliance data of EBuild '01 to for the computer product data of the on-line purchasing guidance invention of Henson '383.

The motivation for the ordinarily skilled artisan to apply the customer configuration invention of Henson '383 to the web page of EBuild '01 is suggested by Henson '383 in which Henson '383 enumerates the benefits of providing for customer customization in an on-line store

[Henson '383: col. 2, lns. 5-26]. The invention of Henson '383 discusses an application to computer appliances. However, the invention may be applied to any kind of consumer appliance, including venting appliances.

Claims 5 and 10:

Regarding Claims 5 and 10, EBuild '01 and Henson '383 in combination teach all the limitation of Claims 1 and 11, as described above. Further note that the invention of Henson '383 also indicates if attributes in the recommendation, based on parameters supplied by the purchaser, is unsuitable for the appliance of interest [Henson '383: col. 17, lns. 25-34; col. 17, lns. 56-59; col. 18, lns. 1-6].

Claims 6 and 11:

Regarding Claims 5 and 10, EBuild '01 and Henson '383 in combination teach all the limitation of Claims 1 and 11, as described above. Further note that the invention of Henson '383 also indicates if attributes in the recommendation, based on parameters supplied to the purchaser, is unsuitable to the appliance of interest, and further comprises indicating to the purchaser alternative appliance choices that would be suitable [Henson '383: col. 17, lns. 35-42].

Claims 8 and 19:

Regarding Claims 8 and 19, EBuild '01 and Henson '383 in combination teach all the limitation of Claims 1 and 11, as described above. Further note that the invention of Henson '383 also suggests changes to the attributes that would make that attribute suitable to type appliance of interest [Henson '383: col. 17, lns. 35-42].

Claims 10 and 21:

Regarding Claims 10 and 21, EBuild '01 and Henson '383 in combination teach all the limitation of Claims 1 and 11, as described above. Further note that the EBuild '01 web site, of the EBuild '01 and Henson '383 combination provides for an appliance choice from a group including a drier, a range hood, and exhaust fan. [EBuild '01: Screen Shot 2, second, third, and seventh options in list].

Claim 22:

Regarding Claim 22, EBuild '01 and Henson '383 in combination teach all the limitation of Claim 11, as described above. Further note that the invention of Henson '383 also comprises a module configure to communicate the recommendation to the purchaser so that appropriate action may be taken by the purchaser regarding the selection of the appliance and/or arrangement [Henson '383: col. 17, lns. 18-20].

6. Claims 2, 7, 12-13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over EBuild '01 and Henson '383 in combination, in view of "The 1993 ASHRAE Handbook – Fundamentals, I-P Edition" published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Inc. (hereafter ASHRAE '93).

Claim 2:

Regarding Claim 2, EBuild '01 and Henson '383 in combination teach all the limitations of Claim 1, as described above. Furthermore, Henson '383 of the EBuild '01 / Henson '383 combination teaches:

- Generating data indicating supportable attributes based on the parameters supplied by the purchaser [Henson '383: col. 7, ln. 48 to col. 8, ln. 55];

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- Comparing the supportable attributes by attributes actually required by the appliance of interest [Henson '383: col. 2, ln. 61 to col. 3, ln. 11]; and
- Determining the suitability of the attributes for the appliance of interest based on the results of the comparison [Henson '383: col. 18, lns. 1-9; col 18. lns. 15-24].

However, EBuild '01 and Henson '383 do not explicitly teach:

- Said data is venting;
- Said parameters are venting parameters;
- Said supportable attributes is of a venting arrangement relative to air flow;

ASHRAE '93 teaches:

- Generating air flow data indicative of air flow supportable by the venting arrangement based on the vent parameters [ASHRAE '93: p. 32.2, col. 2, lns. 5-22 note the summation of friction and dynamic losses in the Equation 14; p.32-4, col. 2, lns. 10-20 note the specification of duct length; p.32.28-40, note specification of shape and angle of fittings];
- Comparing the air flow supportable by the venting arrangement relative to air flow actually required [ASHRAE '93: p. 32.19-21, Section titled HVAC Duct Design Procedures]; and
- Determining the suitability of the venting arrangement for the appliance of interest based on the results of the comparison [ASHRAE '93: p. 32.19-21, Section titled HVAC Duct Design Procedures, see steps 4, 5, and 7 in particular].

In summary, ASHRAE '93 provides standard methods and data to calculate venting pressure, and the both frictional and dynamic pressures losses. The process to calculate the total pressure

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loss includes the summation of pressures losses from friction (calculated from length of venting), and pressure losses from fittings (calculated by shape and angling of fittings) [ASHRAE '93: p. 32.1-40].

It would have been obvious for a person having ordinary skill in the art further specify that the venting parameters as specified by ASHRAE '93 be used for the venting parameters in the EBuild '01/Henson '383 combination as described above.

The motivation for the ordinarily skilled artisan to specify that the venting parameters as specified by ASHRAE '93 be used for the venting parameters in the EBuild '01/Henson '383 combination as described above is suggested by ASHRAE '93 in which ASHRAE '93 enumerates the parameters that venting calculations are dependent upon [ASHRAE '93: p. 32.2, col. 2, lns. 5-22 note the summation of friction and dynamic losses in the Equation 14; p.32.28-40, note specification of shape and angle of fittings]. That it is not possible to create a configuration tool for venting without using these specific parameters, the necessity of using these parameters provides motivation to combine. Further note, that ASHRAE '93 teaches "a duct fitting database, ... , which includes 228 round and rectangular fittings with the provision to include flat oval fittings, ... , with the capability to be linked to duct design programs" [ASHRAE '93: p. 32.11, col. 1, lns. 26-29]. Thus, ASHRAE '93 is explicitly suggesting the linking of this information to a design program. Even further, motivation to combine is suggested by Henson '383, where he states the benefits of applying merchandising functionality to an online store [Henson '383: col. 15, lns. 46-60 and col. 16, lns. 52-63].

Claims 7 and 18:

Regarding Claims 7 and 18, EBuild '01 and Henson '383 in combination teach all the limitations of Claims 1 and 11, as described above. However, EBuild '01 and Henson '383 do not explicitly teach that the vent parameters are selected from the group consisting of the length of the vent, number of turns along the vent, turn angle, and dimensions of a vent outlet cover.

ASHRAE '93 teaches vent parameters are selected from the group consisting of the length of the vent, number of turns along the vent, turn angle, and dimensions of a vent outlet cover [ASHRAE '93: ASHRAE '93: p. 32.2, col. 2, lns. 5-22 note the summation of friction and dynamic losses in the Equation 14; p.32-4, col. 2, lns. 10-20 note the specification of duct length; p.32.28-40, note specification of shape and angle of fittings].

It would have been obvious for a person having ordinary skill in the art further specify that the venting parameters as specified by ASHRAE '93 be used for the venting parameters in the EBuild '01 / Henson '383 combination as described above.

The motivation for the ordinarily skilled artisan to further specify that the venting parameters as specified by ASHRAE '93 be used for the venting parameters in the EBuild '01 / Henson '383 combination on the same basis as Claim 2 described above.

Claims 12-13:

Regarding Claims 12-13, EBuild '01 and Henson '383 in combination teach all the limitations of Claim 11, as described above. Furthermore, Henson '383, EBuild '01 / Henson '383 combination teaches:

- (for clm. 12) A calculating module configured to calculate data indicative of attributes supportable based on the parameters supplied by the purchaser [Henson '383: col. 7, ln. 48 to col. 8, ln. 55; note col. 8, lns. 34-44 in particular];

- (for clm. 13) A look-up table for supplying data indicative of attributes supportable in response to parameters supplied by the purchaser [Henson '383: col. 7, lns. 39-41];
- A comparator configured to compare the attributes supportable relative to attributes actually required by the appliance of interest [Henson '383: col. 2, ln. 61 to col. 3, ln. 11]; and
- A module configured to determine the suitability of the attributes for the appliance of interest based on the results of the comparison [Henson '383: col. 18, lns. 1-9; col 18, lns. 15-24].

However, EBuild '01 and Henson '383 do not explicitly teach the use of airflow data and the application to venting arrangements.

ASHRAE '93 teaches the use of airflow data and the application to venting arrangements ASHRAE '93: [ASHRAE '93: p. 32.2, col. 2, lns. 5-22 note the summation of friction and dynamic losses in the Equation 14; p.32-4, col. 2, lns. 10-20 note the specification of duct length; p.32.28-40, note specification of shape and angle of fittings; and generally ASHRAE '93 chapter 32 in general].

It would have been obvious for a person having ordinary skill in the art further specify the airflow data as specified by ASHRAE '93 be used for the air flow data in the EBuild '01/Henson '383 combination as described above.

The motivation for the ordinarily skilled artisan to further specify the air flow data as specified by ASHRAE '93 on the same basis as Claim 2 described above.

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7. Claims 3-4 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EBuild '01 and Henson '383 in combination, in view of U.S. Patent No. 6,070,149 issued to Tavor et al. (hereafter Tavor '149).

Claims 3 and 14:

Regarding Claims 3 and 14, EBuild '01 and Henson '383 in combination teach all the limitations of Claims 1 and 11, as described above. However, EBuild '01 and Henson '383 do not explicitly teach indicating if attributes in the recommendation, based on parameters supplied by the purchaser, is acceptable relative to at least one model for the appliance of interest.

Tavor '149 teaches indicating if attributes in the recommendation, based on parameters supplied by the purchaser, is acceptable relative to at least one model for the appliance of interest [Tavor '149: col. 50, lns. 42-47].

It would have been obvious for a person having ordinary skill in the art, to apply the indicating mechanism of Tavor '149 to the EBuild '01 / Henson '383 combination.

Motivation for the ordinarily skilled artisan to combine is suggested by Tavor '149, that the mechanism of Tavor '149 would provide means to advise an on-line user/purchaser, and that this mechanism is necessary for an online user/purchaser to actually make a purchase on-line rather than simply browsing [Tavor '149, col. 1, lns. 27-50; col. 3, lns. 19-27].

Claims 4 and 15:

Regarding Claims 4 and 15, EBuild '01 and Henson '383 in combination teach all the limitations of Claims 1 and 11, as described above. However, EBuild '01 and Henson '383 do not explicitly teach indicating if attributes in the recommendation, based on parameters supplied

by the purchaser, is marginally acceptable relative to at least one model for the appliance of interest.

Tavor '149 teaches indicating if attributes in the recommendation, based on parameters supplied by the purchaser, is acceptable relative to at least one model for the appliance of interest [Tavor '149: col. 50, lns. 42-47].

It would have been obvious for a person having ordinary skill in the art, to apply the indicating mechanism of Tavor '149 to the EBuild '01 / Henson '383 combination.

The motivation for the ordinarily skilled artisan to combine is on the same basis as Claims 3 and 14 described above.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over EBuild '01 and Henson '383 in combination, in view of U.S. Patent No. 6,134,557 issued to Freeman (hereafter Freeman '557).

Regarding Claim 9, EBuild '01 and Henson '383 in combination teach all the limitations of Claim 1, as described above. Furthermore, Henson '383 of the However, EBuild '01 / Henson '383 combination, based on the vent parameters supplied by the purchaser, is acceptable relative to at least on model for the appliance of interest as described above. However, EBuild '01 and Henson '383 do not explicitly teach issuing a document certifying that the arrangement.

Freeman '557 teaches issuing a document certifying an arrangement [Freeman '557: col. 9, lns. 59-61; col. 10, lns. 52-54].

It would have been obvious to have applied the certifying method of Freeman '557 to the EBuild '01 / Henson '383 combination.

The motivation for the ordinarily skilled artisan to combine is suggested by Freeman '557 which teaches that an ability to receive quotes and technical information on-line regarding construction materials would make "much more efficient use of the contractor's/customer's time" [Freeman '557: col. 2, lns. 20-54].

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Havrella, Raymond A., "Heating, Ventilating, and Air Conditioning Fundamentals," Prentice Hall, 1995. Reference provides a good introduction to fundamentals for HVAC and related appliances. Good background reference to ASHRAE '93.
- Art admitted as prior art (AAPA) [Specification: p. 1, lns. 25-29]. Teaches that "engineering principles for analyzing and understanding vent designs are generally well-understood in the art."
- U.S. Patent No. 5,986,670 issued to Dries et al., "Method and Apparatus for Producing a Computer Generated Display that Permits Visualization of Changes to the Interior or Exterior of a Building Structure Shown in its Actual Environment." Reference teaches visualization techniques of changes to building structure. This art reads on the more wizard specific claims.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. D. Santos whose telephone number is 703-305-0707. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Patrick J.D. Santos
December 8, 2003


SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100